



W.P.(MD).No.16289 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16289 of 2023

and

W.M.P(MD)No.13641 of 2023

P.Chandrakumar

... Petitioner

Vs.

The Management of
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Represented by its General Manager,
Bye Pass Road,
Dindigul.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to refer the petitioner to Medical Board for find out the petitioner's disability and to provide the petitioner to a suitable alternative permanent employment with pay protection, continuity of service, back wages and all other attendant benefits in accordance with Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and pay the petitioner's arrears of salary from 28.02.2022 to till the date of providing permanent alternative employment.



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For Petitioner : Mr.G.M.Xavier

For Respondent : Mr.K.Ramaiah
Standing Counsel

ORDER

The present writ petition is for a Mandamus, seeking direction to the respondent to refer the petitioner to Medical Board for find out the petitioner's disability and to provide the petitioner to a suitable alternative permanent employment with pay protection, continuity of service, back wages and all other attendant benefits in accordance with Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and pay the petitioner's arrears of salary from 28.02.2022 to till the date of providing permanent alternative employment.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was appointed as a Driver in the respondent Corporation from 25.08.2008 and the petitioner was continuously working and rendering his 15 years of service without any blemish. While he was working as



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a Driver in the respondent Corporation on 29.09.2022, he felt back pain and he was not able to continue his duty as a Driver. As a result of which, he consulted Raks Hospital Private Limited, Madurai and was diagnosed with L4-L5 para centric Disc Prolapse with root Compression and finally his ailment was diagnosed as Hemi Laminectomy with discectomy. He was admitted in the said hospital as in patient from 30.09.2022, surgery was completed on 02.10.2022 and discharged on 09.10.2022.

4. Thereafter, he was continuously bedridden and was taking treatment as out patient in the said hospital. Further, on 30.09.2022, he was referred to Raks Hospital private limited, Madurai and on 27.02.2023, he was issued with a certificate that he should be assigned with less strenuous work but he is unfit for driving heavy transport driving vehicle. In furtherance to that, he was continuously in medical leave till 26.02.2023. However, he was not provided with light duty / alternative duty as advised by the doctor. Thereafter, the petitioner joined duty from 21.02.2023 and was doing work till 26.02.2023. As a result of which, he was seriously affected by back pain and he was completely not able to continue with the driver job and once again he was admitted to the



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hospital and was diagnosed to be unfit for driving completely. Hence, from 28.02.2023 onwards, he availed medical leave.

5. Despite continuous treatment, there was no improvement in his health condition. Hence, left with no other option, the petitioner had sent a representation on 15.05.2023, requesting the respondent to send him to the Medical Board and find out his fitness and to provide him with an alternative employment as mandated under Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and pay his arrears of salary from 28.02.2023. However, the said representation was not considered. Hence, this writ petition came to be filed.

6. Heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondent and carefully perused the materials available on record.

7. The learned Standing Counsel fairly conceded that this is a fit case to be referred to the Rajiv Gandhi Medical College Hospital, at Madurai. However the learned Counsel for the petitioner intervened and sought to send



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the petitioner to the Medical Board at Rajaji Government Medical Hospital at Madurai. For which, the learned Standing Counsel gracefully accepted. Hence, this Court is inclined to allow this writ petition by directing the respondent to refer the petitioner to the Medical Board at Rajaji Government Medical Hospital, Madurai to find out the dis-ability of the petitioner and thereafter provide him with a suitable alternative employment with pay protection, continuity of service, back wages and all other attendance benefits in accordance with Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and pay his arrears of salary from 28.02.2023 within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. With the above said observation, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

06.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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L.VICTORIA GOWRI, J.

BTR

To

The General Manager,
The Management of
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Bye Pass Road,
Dindigul.

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